S.B. CIVIL WRIT PETITION NO. 1259/04.

DATE OF ORDER : 16.07.2004.

HON'BLE MR. B. PRASAD, J.

Mr. Pushpendra Singh Bhati for petitioner.
Mr.D.S.Shishodia, Sr. Advocate assisted by Mr. R.K.Singhal for caveator.

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The present petition has been filed with the following prayers.

"A. By an appropriate writ order or direction, the respondents may kindly be directed to initiate the selection process in accordance with the policy [Annex.2] issued by the respondent No.3.

B. By an appropriate writ, order or direction, the respondents may kindly be directed to permit all the meritorious candidates in accordance with the merit prepared by respondent No.3 to participate in the selection process.

C. Or in alternative by an appropriate writ, order or direction, the respondents may kindly be directed to respondents may kindly be directed to remove the bar of 60% qualifying marks and permit all the candidates to compete in the selection process by reinitiating the same.

D. Any other appropriate writ, order or direction, which this Hon'ble Court may deem just and proper in the facts and circumstances of the case may kindly be passed in favour of the petitioner.

E. Writ petition filed by the petitioner may kindly be allowed with costs."

These prayers emanated out of a solitary acceptance which contained in document [Annex.2] in which the State Government under its own wisdom has deviced the methodology for recruiting Engineers in State Services on urgent or temporary basis.

Learned counsel for the petitioner submits that the criteria contained in Annex.2 should be enforced in relation to the recruitment as ordered by the respondent vide

Annex.1. Annex.1 has been issued by a private company, which has lost its government character after privatization and has been handed over to a management which is not of the Government. According to the Order dated 25.8.98 [Annex.2] issued by the State Government, temporary or ad-hoc recruitment shall be made on the basis of merit list prepared by respondent No.3 in government service. That being the position, Annex.2 cannot be enforced in the case of the petitioner.

In the recruitment in question, the minimum qualification required for general category is around 60%. Candidates having less than minimum percentage of marks are held to be not eligible for qualifying examination. This is an attempt of short listing. After the written examinations according to their merit suitability will be judged. Written examination is provided to judge comparative merit of those who come out of different institutions. Thus, their candidatures cannot be considered to be totally out of place.That being the position, if certain short listing mechanicism has been applied by the respondents in accordance with the law as is considered proper in public employment no cause is seen in favour of the petitioner. Preliminary examinations are provided for short listing and then final merit is prepared. Thus, it is actually in accordance with what is happening in other services in other Departments. Process of short listing is adopted in almost all recruitments, therefore, it cannot be said that the respondents have acted in any way arbitrary manner so as to draw the attention of this Court for exercising jurisdiction under Article 226 of the Constitution of India.

The petition having no force is hereby dismissed.

[B.PRASAD],J.

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